IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

C.W.P. No.77 of 2006.

Date of decision: 28.5.2007

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Ashok Kumar ....Petitioner

-Versus-

State of H.P. and others ….Respondents

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Coram:

The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice Surinder Singh, Judge.

Whether approved for reporting? No

For the Petitioner: Mr.Ajay Sharma, Advocate.

For Respondents: Mr.M.S.Chandel,A.G. with Mr.R.M. Bisht, Dy.A.G. for respondents 1&4.
Mr.G.S. Rathore, counsel for R-2.

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**Deepak Gupta, J.(Oral)**

The petitioner by means of this writ petition has challenged the orders of respondent No.4 dated 22.8.1995 and of respondent No.1 dated 5.12.2005.

The petitioner had taken a loan and failed to repay the loan and thereafter in Arbitration proceedings the respondent No.4 came to the conclusion that the petitioner was liable to pay Rs.75,000/- as principal and interest thereupon @ 14% p.a. till its realization. An appeal was filed by the petitioner before the respondent No.1 in the year 1995 which was dismissed in 2005. The Appellate Authority also imposed costs of Rs.10,000/- upon the petitioner.

We had on 10.5.2007 made it clear that we are not inclined to interfere in the impugned order as far as its merits are concerned. The factum of taking the loan is not denied. The rate of interest is disputed but as per the mortgage deed the rate of interest

was 14 ½ % p.a. On the pure findings of fact that the petitioner is liable to pay the amount we cannot interfere in the writ petition.

Shri Ajay Sharma, strenuously contended that the costs is highly excessive. To satisfy ourselves we have gone through the entire record of the Appellate Authority and find that the matter remained pending before the Appellate Authority for almost 10 years. The petitioner has definitely been guilty of dilatory tactics and there were as many as 15 occasions when adjournment was sought for on behalf of the petitioner. However, there were as many occasions on which the petitioner as well as the respondent made a joint request for adjournment. On a number of dates the Presiding Officer also adjourned the case because he was busy and could not hear the matter. Taking all these facts into consideration, we are of the considered opinion that the petitioner cannot be solely held responsible for delaying the case. There is however no doubt that the petitioner has managed to delay the litigation for more than a decade.

Keeping in view all the aforesaid circumstances the costs is reduced from Rs.10,000/- to Rs.4000/-. The writ petition is disposed of in the aforesaid terms.

**( Deepak Gupta ),**
**Judge**

May 28, 2007.
PV

**( Surinder Singh ),**
**Judge**